

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

KEYON PRUITT-BOYETTE,

Petitioner,

v.

WILLIAM P. BARR,

Respondent.

No. 4:20-CV-01122

(Judge Brann)

ORDER

JULY 10, 2020

AND NOW, upon preliminary consideration of the petition for writ of habeas corpus pursuant 28 U.S.C. § 2241¹ filed by Petitioner Keyon Pruitt-Boyette (“Petitioner”) in which he challenges his federal conviction and sentence entered in the United States District Court for the Western District of New York² on the grounds that, *inter alia*, Respondent failed to prove beyond a reasonable doubt that he was subject to federal investigation, indictment, prosecution, trial, judgment,

¹ “If it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief in the district court, the judge must dismiss the petition and direct the clerk to notify the petitioner.” Rule 4 of Rules Governing Section 2254 Cases in the United States District Court. Rule 1(b) permits application of rules to habeas corpus petitions pursuant to 28 U.S.C. § 2241.

² Doc. 1; <https://ecf.nywd.uscourts.gov/doc1/12914696646>, *United States v. Pruitt-Boyette*, No. 1-17CR159-001 (W.D. NY.), Doc. 222, Amended Judgment in a Criminal Case indicating Petitioner plead guilty to Count 1 of the Indictment, Conspiracy to Possess with Intent to Distribute, and to Distribute, 28 Grams or More of Cocaine Base in violation of 21 U.S.C. § 846, 21 U.S.C. § 846(b)(1)(B), and 21 U.S.C. § 841(a)(1) and imposing a term of imprisonment of 70 months.

conviction, and imprisonment, and failed to overcome the presumption of innocence,³ and it appearing from the criminal case electronic docket⁴ that the sentencing court entered the amended judgment on September 10, 2019, and that Petitioner has not filed a Motion to Vacate, Set Aside, or Correct Sentence, pursuant to 28 U.S.C. § 2255 in the sentencing court, and it appearing that challenges to the legality of federal convictions or sentences that are allegedly in violation of the Constitution may generally be brought only in the district of sentencing pursuant to 28 U.S.C. § 2255,⁵ and it further appearing that there is nothing that would indicate that the remedy by motion under § 2255 would be inadequate or ineffective such that the matter should be considered pursuant to §2241,⁶ and it being well-settled that if a petitioner improperly challenges a federal conviction or sentence under §

³ Doc. 1, pp. 28, 44, 62, 78, 105.

⁴ <https://ecf.nywd.uscourts.gov>

⁵ “Our Circuit permits access to § 2241 when two conditions are satisfied: First, a prisoner must assert a “claim of ‘actual innocence’ on the theory that ‘he is being detained for conduct that has subsequently been rendered non-criminal by an intervening Supreme Court decision’ and our own precedent construing an intervening Supreme Court decision”—in other words, when there is a change in statutory caselaw that applies retroactively in cases on collateral review. [*United States v. Tyler*, 732 F.3d [241] at 246 [(3d Cir. 2013)] (quoting *Dorsainvil*, 119 F.3d [245], at 252 [3d Cir. 1997]). And second, the prisoner must be “otherwise barred from challenging the legality of the conviction under § 2255.” *Id.* Stated differently, the prisoner has “had no earlier opportunity to challenge his conviction for a crime that an intervening change in substantive law may negate.” *Dorsainvil*, 119 F.3d at 251.” *Bruce v. Warden Lewisburg USP*, 868 F.3d 170, 180 (3d Cir. 2017).

⁶ Importantly, § 2255 is not “inadequate or ineffective” merely because the sentencing court has previously denied relief. *See Dorsainvil*, 119 F.3d at 251. Nor do legislative limitations, such as statutes of limitation or gatekeeping provisions, placed on § 2255 proceedings render the remedy inadequate or ineffective so as to authorize pursuit of a habeas corpus petition in this court. *Cradle v. United States*, 290 F.3d 536, 539 (3d Cir. 2002); *United States v. Brooks*, 230 F.3d 643, 647 (3d Cir. 2000); *Dorsainvil*, 119 F.3d at 251.

2241, as is the case here, the petition must be dismissed for lack of jurisdiction,⁷ **IT**

IS HEREBY ORDERED that:

1. The petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 is **DISMISSED** for lack of jurisdiction.
2. The dismissal is without prejudice to Petitioner's right to seek relief in the sentencing court.
3. The Clerk of Court is directed to NOTIFY the Petitioner and **CLOSE** this case.

BY THE COURT:

s/ Matthew W. Brann

Matthew W. Brann

United States District Judge

⁷ *Application of Galante*, 437 F.2d 1164, 1165 (3d Cir. 1971).